Amendments to the Drawings:

The attached sheets of drawings include changes to Figures 3, 4, 5 and 6.

The sheet including Figure 3 replaces the original sheet including Figure 3. Figure 3 has been amended to include an appropriate legend.

The sheet including Figures 4 and 5 replaces the original sheet including Figures 4 and 5. Figures 4 and 5 have been amended to include appropriate legends.

The sheet including Figure 6 replaces the original sheet including Figure 6. Figure 6 has been amended to include the directional arrows as required by the Examiner in the office action.

REMARKS/ARGUMENTS

The Examiner has objected to the drawings as allegedly failing to comply with 37 CFR 1.121. Applicant submits herewith replacement drawings

The Examiner has also objected to the abstract of the disclosure in the application as originally filed. Accordingly, Applicant has amended the specification as set forth above to replace the abstract of the disclosure.

Claims 1-11 are currently pending in the application. Claims 1-11 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,512,761 issued to Schuster et al.

Applicants respectfully traverse the rejections set forth above. As to the objections to claim 5, Applicant has canceled claims 1-11, thereby obviating the objection to claim 5. Applicant has added claim 12 as follows:

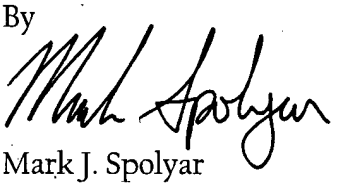
> 12. In a network, a method for computing the delay attributable to a network, the method comprising
>
> determining a round-trip time for a network connection based on the arrival times of selected packets transmitted between first and second endpoints;
>
> measuring the time gaps between consecutively increasing data packets in an ordered packet stream associated with a transaction over the network connection between the first and second endpoints;
>
> comparing the measured time gaps to the round-trip time; and
>
> computing a network delay for the transaction by adding the round-trip time to the measured time gaps that exceed the round trip time.

Schuster does not disclose or suggest the claimed subject matter. Schuster discloses a method for managing real-time data transfer over packet-switched networks. To perform various operations (such as network path selection, jitter buffer optimization, changes to charged fees, etc.), Schuster teaches the monitoring and computation of network transmission delay and jitter (which is the observed variance in transmission delay, see Schuster at Col. 7:40-45). To measure transmission delay, Schuster teaches comparing the packet departure time to the packet arrival time for a given packet. See Schuster at Col. 5:30-35. Schuster does not disclose however measuring gaps of time between consecutively increasing packets in an ordered packet stream. Furthermore, Schuster does not disclose or suggest a method for computing the delay attributable to a network by determining a round trip time for a network connection and computing a network delay that includes the round trip time and adds measured time gaps between data consecutive

packets that exceed the round-trip time. As discussed in the application, the network delay computed according to the invention provides a more meaningful indication of the health/problems associated with the network. See Application ¶¶ 52-56. Furthermore, as to claim 13, Schuster does not disclose or suggest determining the round trip time based on the arrival times of the handshake packets corresponding to the network connection.

In light of the foregoing, Applicant believes that all currently pending claims are presently in condition for allowance. Applicant respectfully requests a timely Notice of Allowance be issued in this case. If the Examiner believes that any further action by Applicant is necessary to place this application in condition for allowance, Applicants request a telephone conference with the undersigned at the telephone number set forth below.

Respectfully Submitted,
LAW OFFICE OF MARK J. SPOLYAR
By



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